Case: 1:21-mj-00073
Assigned to: Judge Robin M. Meriweather
Assign Date: 1/15/2021
Description: COMPLAINT W/ARREST WARRANT

STATEMENT OF FACTS

I am employed as a Special Agent of the Federal Bureau of Investigation (FBI) and have been so employed since October 12, 2010. Currently, I am assigned to a squad that investigates counterintelligence matters and national security investigations. My squad is based at the Washington Field Office in Washington, DC. Currently, I am assigned to assist with the investigation into criminal activity in and around the Capitol grounds. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of violations of Federal criminal laws. The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification are allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, shortly after 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the aforementioned events, video footage that appeared to be captured on mobile devices of persons present on the scene depicted evidence of violations

of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

On or about January 8, 2021, at least three individuals (TIPSTER 1, TIPSTER 2, TIPSTER 3) submitted tips online to the FBI to identify a person seen in a widely circulated video by ITV News, a television news network based in the United Kingdom. The FBI contacted TIPSTER 1 and TIPSTER 2 for additional information. TIPSTER 1 referred the FBI to INTERVIEWEE 1.

The ITV News video depicted rioters storming the U.S. Capitol building on January 6, 2021. The tipsters provided screenshots or stills from the video, similar to that in Figure 1 below. In the video, available at ITV's website www.itv.com, at approximately the 2 minute 35 second mark, a large group of individuals can be seen streaming in and out of a room in the Capitol building with a curved entryway and a wooden sign above the doorway stating "Speaker of the House Nancy Pelosi." The reporter narrating the video can be heard saying at this moment: "They breached and entered the Speaker's office itself."

At approximately the 2 minute 47 second mark, a female with brown hair, round sunglasses, and a white and gray winter hat (PERSON 1) appears to be standing near the same office with the curved entryway, except the wooden sign is missing from above the door. PERSON 1 then appears to hold up a broken engraved piece of wood and a white manila envelope. The fractured wood appears to be a piece of the same wooden sign previously seen above the Speaker's office, as the words "the House" and letters "Nancy" are clearly visible (see Figure 1).

Figure 1

In a tip to the FBI, TIPSTER 1 identified PERSON 1, as seen in the video, as an individual named EMILY HERNANDEZ. TIPSTER 1 advised that HERNANDEZ was from Sullivan, Missouri. TIPSTER 1 also submitted the photograph seen in Figure 2 as a tip, again identifying PERSON 1 as Emily HERNANDEZ. The FBI contacted TIPSTER 1, who confirmed the

information provided to the FBI online and advised that TIPSTER 1 and HERNANDEZ had mutual acquaintances. TIPSTER 1 recognized HERNANDEZ through their association on social media. PERSON 1, as depicted in Figure 2, was also recognized via online tips as Emily HERNANDEZ by TIPSTER 2, TIPSTER 3, and multiple anonymous tipsters.

Figure 2

TIPSTER 1 also submitted a photograph taken from Emily HERNANDEZ's Facebook page as a tip to the FBI. The photograph appears to depict HERNANDEZ wearing the same winter hat as worn by PERSON 1 inside and outside of the U.S. Capitol building on January 6, 2021 (Figure 3).

TIPSTER 1 recommended the FBI contact INTERVIEWEE 1, a high school friend of PERSON 1. INTERVIEWEE 1 confirmed that s/he had seen the photographs of PERSON 1 at the U.S. Capitol and identified her as Emily HERNANDEZ of Sullivan, Missouri.

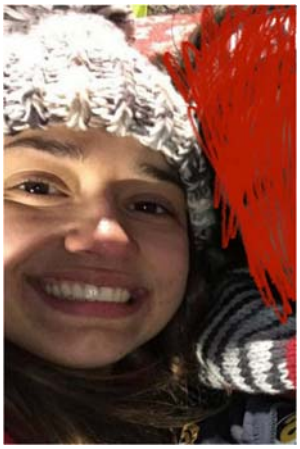

Figure 3

TIPSTER 2 submitted an online tip to the FBI containing a video depicting PERSON 1, wearing the same hat and sunglasses from Figures 1 and 2, with the dome of the Capitol building rotunda above her. Figures 4 and 5 are still frames from the video, showing PERSON 1 in the Capitol building and PERSON 1 in possession of several items to include the fractured piece of wood and a red sign. TIPSTER 2 identified PERSON 1 in this video as Emily HERNANDEZ of Sullivan, Missouri. The FBI contacted TIPSTER 2, who confirmed the information submitted online and advised that TIPSTER 2 was introduced to HERNANDEZ through mutual acquaintances but has not seen her in several years. TIPSTER 2 saw the video when it was posted to HERNANDEZ's Snapchat account. TIPSTER 2 and HERNANDEZ are friends on Snapchat.

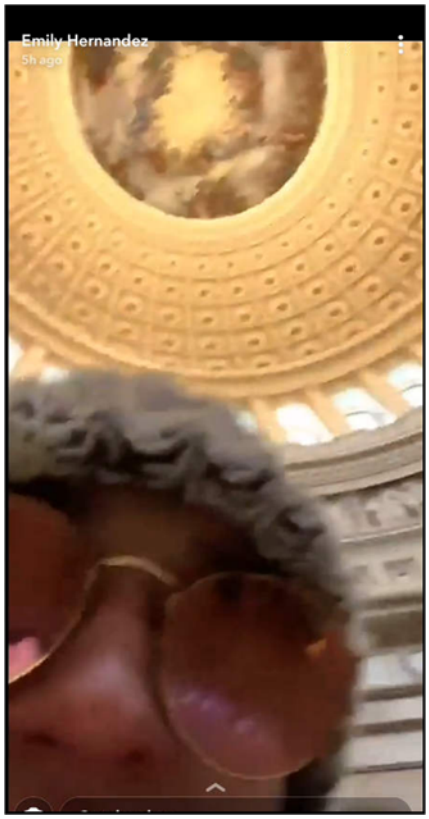

Figure 4

Figure 5

Additional photographs submitted to the FBI as anonymous tips appear to depict PERSON 1 outside of the U.S. Capitol building displaying the fractured wooden sign. The anonymous tipsters who submitted figures 6, 7, and 8 did not identify PERSON 1 as Emily HERNANDEZ.

Figure 6

Figure 7

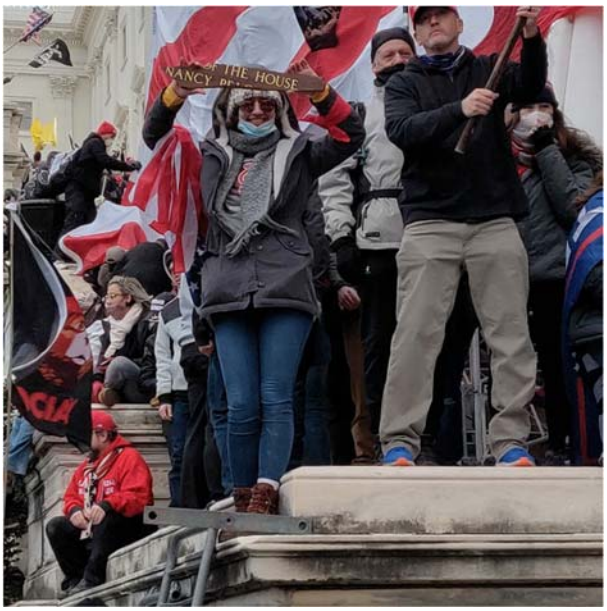

Figure 8

The FBI conducted research on government databases and learned that there was an individual named EMILY HERNANDEZ associated with a residence in Sullivan, Missouri. A search of the Missouri Department of Motor Vehicles returned EMILY HERNANDEZ's driver license photograph. By comparing this photograph to the image of PERSON 1, your affiant reasonably believes that PERSON 1 is identical to EMILY HERNANDEZ.

On or about January 14, 2021, the FBI consulted with the House of Representatives' curator to determine the value of the Speaker's name plate that had been posted above her office. The curator estimated that the cost to replace the name plate would be $870.

Based on the foregoing, your affiant submits that there is probable cause to believe that EMILY HERNANDEZ violated:

18 U.S.C. § 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in

disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions; or attempts or conspires to do so. For purposes of Section 1752 of Title 18, a "restricted building" includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance;

40 U.S.C. § 5104(e)(2), which makes it a crime to willfully and knowingly (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress; and (G) parade, demonstrate, or picket in any of the Capitol Buildings; and

18 U.S.C. § 641, which makes it a crime for a person to embezzle, steal, purloin, or knowingly convert to his use or the use of another, or without authority, sell, convey or dispose of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or receive, conceal, or retain the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted.

Jorge Herrera
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 15th day of January 2021.

Robin M. Meriweather
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ROBIN M. MERIWEATHER
U.S. MAGISTRATE JUDGE